IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

WP(C).No. 3745 of 2007(U)

PETITIONER:

K.E. MOHANAN, KARIPPURATH HOUSE,
IRUMPAYAM P.O., VAIKOM,
KOTTAYAM DISTRICT-686 605.

BY ADV. SRI.MATHEW PHILIP EDAPPALLIL

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED
BY SECRETARY TO GOVERNMENT,
CO-OPERATIVE DEPARTMENT, SECRETARIAT,
TRIVANDRUM-695 001.

2. KADUTHURUTHY URBAN CO-OP.BANK LTD.,
NO.K.399, KADUTHURUTHY, KOTTAYAM-686 604,
REPRESENTED BY ITS SECRETARY.

3. P.A. THOMAS, AUTHORISED OFFICER,
UNDER SECURITISATION & RECONSTRUCTION OF
FINANCIAL ASSETS & ENFORCEMENT OF SECURITY
INTERST ACT 2002 KADUTHURUTHY URBAN
CO-OP.BANK LTD., KOTTAYAM-686 604.

BY SENIOR GOVERNMENT PLEADER, SRI P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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W.P.(C) No. 3745 of 2007 (U)

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Dated this the 2nd day of February, 2007

J U D G M E N T

The writ petitioner had defaulted repayment of a loan availed from the second respondent, Urban Co-operative Bank, Kaduthuruthy. An award has been passed by the Arbitrator on 29/10/2003. The same had been challenged before the Co-operative Tribunal, which is pending as R.P.No.87/2005. He received the award only on 03/03/2005. It was an ex-parte award. Therefore, it is contended that the writ petitioner could not raise all the contentions before the Arbitrator.

2. Meanwhile, the second respondent took coercive steps against the writ petitioner to sell his property, through public auction, as per notice dated 13/12/2004, Exhibit P2. The auction was scheduled on 31/01/2005. However, because of the intervention of the tribunal, the auction was adjourned. It is now submitted that the revision petition was dismissed for default. It is thereafter, the public auction had been proclaimed on the property of the writ petitioner. A restoration application has been filed and the same is pending before the tribunal.

3. The learned counsel for the writ petitioner submits that there is valid ground for restoring the matter and, therefore, till the restoration application is disposed of, coercive action on the property of the writ petitioner may be interfered with.

4. After hearing the counsel for the writ petitioner and the Senior Government Pleader, I direct the Co-operative Tribunal, Thiruvananthapuram, to dispose of the restoration application pending with it, at the earliest, in any case, within two months from the date of production of a copy of this judgment. Till such time, all proceedings initiated against the writ petitioner, under provisions of the Kerala Co-operative Societies Act and Rules as well as the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, shall be kept in abeyance.

This writ petition is closed as above.

(J.M.JAMES)
Judge

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